

ORDINANCE NO. 2020-01

**AN ORDINANCE OF THE SOUTH WEBER CITY COUNCIL ADOPTING CITY CODE
TITLE 2 CHAPTER 1, PROCUREMENT CODE**

WHEREAS, Utah Code Ann. 63G-6a-105(1) and (4) provides that every procurement is governed by the State procurement code and that municipalities may adopt any section of that chapter or its implementing regulations; and

WHEREAS, UCA 63G-6a-105(2) provides that the State procurement code does not apply to a public entity that is not a procurement unit; and

WHEREAS, UCA 63G-6a-103(49) defines local government procurement unit to include a municipality, unless the municipality adopts its own procurement code by ordinance; and

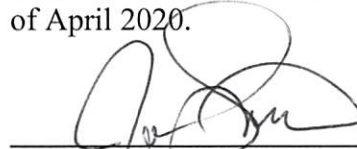
WHEREAS, a municipality is therefore allowed to adopt its own procurement ordinance and thereby exempt itself from the State procurement code, except for those State provisions the city specifically adopts; and

WHEREAS, the City Council finds it is in the public interest to adopt its own procurement code;

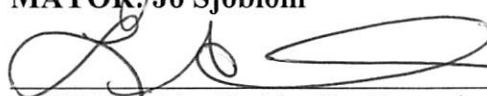
NOW, THEREFORE, BE IT ORDAINED by the South Weber City Council that Title 2 Chapter 1 of the South Weber City Code is hereby adopted to read as attached hereto as Exhibit A. This Ordinance shall take effect immediately upon passage and publication or posting.

Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

PASSED AND ADOPTED by the City Council of South Weber, Davis County, on the 14th day of April 2020.



MAYOR: Jo Sjoblom



ATTEST: Lisa Smith, City Recorder

Roll call vote is as follows:

Council Member Alberts	<input checked="" type="radio"/> FOR	AGAINST
Council Member Halverson	<input checked="" type="radio"/> FOR	AGAINST
Council Member Petty	<input checked="" type="radio"/> FOR	AGAINST
Council Member Soderquist	<input checked="" type="radio"/> FOR	AGAINST
Council Member Winsor	<input checked="" type="radio"/> FOR	AGAINST



CERTIFICATE OF POSTING

I, the duly appointed recorder for the City of South Weber, hereby certify that Ordinance 2020-01 was passed and adopted the 14th day of April 2020, and also certify that complete copies of the ordinance were posted in the following locations within the municipality this 15th day of April, 2020:

1. South Weber Family Activity Center, 1181 E. Lester Drive
3. South Weber City Building, 1600 E. South Weber Drive



Lisa Smith, City Recorder

EXHIBIT A

Title 2

Revenue and Taxation

**TITLE 2
REVENUE AND TAXATION**

**Chapter 1
Procurement**

2-1-010:	PURPOSE AND SCOPE
2-1-020:	DEFINITIONS
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2-1-040:	PROCUREMENT OFFICERS; DUTIES AND AUTHORITY
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2-1-180:	ADVERTISING REQUIREMENTS
2-1-190:	ETHICS
2-1-200:	VIOLATIONS

2-1-010: PURPOSE AND SCOPE. The purpose of this chapter is to establish procedures and guidelines for the procurement of supplies, services, and construction for the City of South Weber, and to ensure that all such purchases and encumbrances are of acceptable quality and are made equitably, efficiently and economically. A second purpose of this chapter is to establish procedures for the disposal of City surplus property.

2-1-020: DEFINITIONS. As used in this chapter:

- A. **BUILDING IMPROVEMENT** means the construction or repair of a public building or structure.
- B. **CAPTIAL EXPENDITURE** means a capital asset purchase greater than \$10,000 and a life expectancy of three years or more or extends the life of the asset.
- C. **CHIEF PROCUREMENT OFFICER** means the City Manager.
- D. **CITY** means the City of South Weber, Utah.

- E. CLASS C ROAD IMPROVEMENT PROJECT means the construction and maintenance of a class C road.
- F. CONSTRUCTION MATERIALS mean the supplies and services used to complete a construction project.
- G. CONSTRUCTION OF CLASS C ROADS means work that would apply to any new City roadbed either by addition to existing systems or relocations; resurfacing of existing roadways with more than two inches of bituminous pavement; or new structures or replacement of existing structures, except the replacement of drainage culverts.
- H. CONSTRUCTION PROJECT means a building improvement, public works project, or class C road improvement project. Construction project does not mean the routine operation, repair, or maintenance of existing structures, buildings, or real property.
- I. DEPARTMENT HEAD means the director of a department, including Public Works, Finance, Recreation, and Fire, that oversees the professional, administrative, and managerial duties pertaining to the operations and performance of their respective department.
- J. DESIGN PROFESSIONAL means an individual licensed as an architect, professional engineer, professional land surveyor, or an individual certified as a commercial interior designer.
- K. DESIGN PROFESSIONAL SERVICES mean professional services within the scope of the practice of architecture, professional engineering, professional land surveying, master planning and programming services, or commercial interior design.
- L. EMERGENCY PROCUREMENT means the procurement of supplies, services, or construction materials that cannot be purchased through normal procurement methods due to an existing or imminent emergency condition. An emergency condition is a situation which creates an immediate and serious threat to public health, life, safety, or property. An emergency condition is usually, but not always, the result of floods, natural disasters, epidemics, riots, or critical equipment failures.
- M. EMPLOYEE means an individual duly employed and authorized by the City to make purchases for the City.
- N. INVITATION FOR BIDS means a procurement document used for seeking competition for large expenditure purchases or small expenditure purchases that may ultimately exceed the aggregate threshold for a small expenditure purchase, and which is submitted electronically or in a sealed envelope to prevent its contents from being revealed or known before the deadline for the submission of bids.
- O. MAINTENANCE OF CLASS C ROADS means the keeping of a road facility in a safe and stable condition to which it was constructed or improved, and includes the reworking

of an existing surface by the application of up to and including two inches of bituminous pavement; the installation or replacement of guardrails, seal coats, and culverts; the grading or widening of an existing unpaved road or flattening of shoulders or side slopes to meet current width and safety standards; and horizontal or vertical alignment changes necessary to bring an existing road into compliance with current safety standards.

- P. **PROCUREMENT** means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise encumbering the City as a means of acquiring supplies, services, or construction materials, and all functions that pertain to obtaining any supply, service, or construction materials, including the solicitation of sources, selection, award, and all phases of contract administration.
- Q. **PROFESSIONAL SERVICES** mean auditing, banking, insurance, legal, and other forms of professional consulting, but not design professional services.
- R. **PUBLIC WORKS PROJECT** means the construction of a park or recreational facility, a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or flood control, or street lighting. Public works project does not include the replacement or repair of existing infrastructure on private property.
- S. **PURCHASE ORDER** means a procurement document issued by the purchaser to formalize a purchasing transaction or contract with a supplier. A purchase order encumbers funds that were properly appropriated for a particular purchase from an approved budget account. A purchase order is sent to a supplier to initiate or place an order.
- T. **QUOTE** means an electronic or written offer to sell goods or services at a certain price, under specified conditions.
- U. **RESPONSIVE AND RESPONSIBLE BIDDER** means a person who submits a bid that conforms in all material aspects to the bid specifications, and who has the capability in all respects to perform in full the contract or purchase order requirements in a timely manner.
- V. **REQUEST FOR PROPOSALS** means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.
- W. **REQUEST FOR QUALIFICATIONS** means a document used to solicit the qualifications, experience, training, and ability to perform a given task or project.
- X. **SEALED BIDS** are submitted in a sealed envelope to prevent its contents from being revealed or known before the deadline for the submission of bids.
- Y. **SERVICES** mean the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end-product other than reports that are merely incidental to the

required performance. "Services" does not include employment agreements or collective bargaining agreements.

Z. SOLE SOURCE PROCUREMENT means the procurement of supplies or services that are only available from a single supplier or manufacturer.

AA. SOLICITATION means the process of notifying prospective bidders that the City wishes to receive quotes, bids, or proposals for supplies or services. The process may consist of public advertising, invitations to bid, or requests for proposals to prospective bidders.

BB. SUPPLIES mean all personal property, including but not limited to goods, equipment, materials and printing.

2-1-030: APPLICATION.

A. All procurement-related expenditures of the City shall conform to the provisions of this chapter and applicable provisions of State law including, but not limited to, the Uniform Fiscal Procedures Act set forth at Utah Code Ann. §10-6-101, et seq., as amended. Any expenditure involving federal assistance funds shall comply with applicable federal law and regulations. Any expenditure involving the construction, maintenance or improvement of a class C road or work using class C funds shall comply with Utah Code Ann. 72-6-108 and 72-6-109, as amended.

B. Procurement-related expenditures not covered under this chapter shall follow the Utah Procurement Code, Utah Code Ann. 63G-6a-101 et seq.

C. All procurement shall follow the ethical standards of the Utah Municipal Officers' and Employees' Ethics Act, Utah Code Ann. 10-3-1301, et seq.

D. The City shall maintain records pertaining to purchases and encumbrances made under this chapter in accordance with the Utah Government Records Access and Management Act, Utah Code Ann 63G-2-101 et seq.

E. No check or warrant to cover any claim against appropriations may be drawn until the claim has been processed according to the relevant provisions of this chapter.

2-1-040: PROCUREMENT OFFICERS; DUTIES AND AUTHORITY.

A. The City Council shall approve all procurement by the City. The City's procurement authority is hereby delegated as provided in this chapter.

B. The City Manager shall act as the Chief Procurement Officer. The Chief Procurement Officer, or designee, shall review all procurements or encumbrances made to ensure accuracy and compliance with this chapter.

- C. The Chief Procurement Officer or Mayor may sign contracts as specifically authorized in advance by the City Council.
- D. The Chief Procurement Officer shall be responsible for all purchasing and may delegate the following duties to the Purchasing Agent, who shall be the Finance Director, or to a Department Head as necessary:
 - 1. administering and interpreting this chapter in accordance with any applicable federal, state and local laws, and finance department policies and procedures for carrying out the provisions of this chapter;
 - 2. procuring or supervising the procurement of all supplies and services needed by the City, including preparation of specifications, and negotiating and obtaining the authorized signatures on procurement contracts and purchase orders;
 - 3. exercising general supervision and control over all inventories or supplies of the City and the inspection of and accounting for all such inventories or supplies;
 - 4. preparing and maintaining forms and reports as are reasonably necessary to the operation of this chapter and other rules and regulations of the City;
 - 5. keeping generally informed of current developments in the field of procurement, including market conditions and new products;
 - 6. providing a copy of all contracts and agreements to the City Recorder immediately upon their execution; and
 - 7. administering the sale, trade, exchange, or disposal of the City's surplus personal property.

2-1-050: AUTHORIZATION LIMITS

- A. Department heads may authorize purchase of supplies, services and materials which do not exceed \$4,999 and may sign the contracts pertaining thereto, provided the purchases are made in accordance with procedures set forth in this chapter and there are funds in the department budget to cover the purchases to be made.
- B. Purchases of supplies, services, or construction materials between \$5,000 and \$9,999 require prior approval of the Department Head and the Chief Procurement Officer. The Chief Procurement Officer shall verify that the procedures set forth in this chapter have been accurately followed prior to giving approval and shall ensure there are sufficient funds budgeted and available to cover the purchases to be made.
 - a. A purchase order shall be submitted for approval for the purchase of all supplies, services or construction in excess of \$5,000, except in circumstances permitted by this chapter

such as emergency purchases or for service contracts entered between the City and contracted party, which specify the cost of service.

- C. Purchases of supplies, services, or construction materials of more than \$10,000 require the approval of the Department Head, Chief Procurement Officer, and the City Council. The Chief Procurement Officer shall verify that the procedures set forth in this chapter have been accurately followed prior to the City Council giving approval.

2-1-060. STANDARD PROCUREMENT PROCESSES.

Table: Procurement Summary

Amount	Authorization	Process	Policy Reference
\$0 - \$999	Department Head	Small	2-1-060.A.1.a
\$1,000 - \$4,999	Department Head	Small or Exempt	2-1-060.A or C
\$5,000 - \$9,999	City Manager	Small or Exempt	2-1-060.A or C
\$10,000 - \$24,999	City Council	Small or Exempt	2-1-060.A or C
\$25,000 +	City Council	Large or Exempt	2-1-060.B or C

A. Small Purchases.

1. The City’s policy and procedure governing purchases under \$25,000 is as follows:

- a. Before making a purchase less than \$1,000, the Department Head responsible for purchase shall use means which are reasonable under the circumstances to assure that the City is getting good value and a reasonable price.
- b. A purchase of goods or services greater than \$1,000 but not exceeding \$25,000 shall be awarded after solicitation of price quotes from enough prospective vendors to reasonably ensure that the City received a competitive price, unless an exempt expenditure process in 2.1.060.C is followed. Solicitations may be made electronically or in writing. The Purchasing Agent or Department Head shall evaluate the quotes received to determine the lowest responsible and responsive quote. Such quotes shall be recorded and kept by the City.
- c. It is unlawful for a person to intentionally or knowingly divide a procurement into small procurements with the intent to make the procurement qualify as a small purchase or meet the small purchase threshold of \$25,000.
- d. Purchases for construction, job order contracting, design professional services, other professional services, information technology, and goods may not exceed an annual cumulative threshold of \$25,000 from the same source, unless the Chief Procurement Officer gives written authorization to exceed the threshold that includes the reasons for exceeding the threshold.

B. Large Purchases.

1. The City's policy and procedure governing purchases of \$25,000 and over is as follows:

a. A purchase of goods or services \$25,000 or over shall be awarded with a bidding procedure, unless an exempt expenditure process in 2.1.060.C is followed.

2. Bidding Procedures.

a. Type of Purchases and Bid Limits. The following purchases and bid limits require bidding procedures:

- i. capital equipment purchases estimated to cost \$25,000 or more; and
- ii. building improvement or public works projects estimated to cost \$25,000 or more.

b. Plans and Specifications. The City shall cause plans and specifications to be prepared and approved prior to any Invitation for Bids.

c. Invitation for Bids. An Invitation for Bids shall be prepared by the City and shall include:

- i. a description of the goods or services to be purchased or work to be performed;
- ii. contract terms, conditions and bond requirements applicable to the purchase or work;
- iii. the criteria that will be used to evaluate the bid;
- iv. notification of the location where plans, specifications and other information may be obtained;
- v. the time and place of the bid opening; and
- vi. the right of the City to reject any and all bids.

d. Publication. Public notice of an invitation for bids shall follow applicable state law.

- e. **Amendment.** The City may amend, supplement, or cancel an Invitation for Bids at any time prior to the opening of the bids when deemed in the best interest of the City.
- f. **Submission.** All bids received by the City shall be received according to the instructions in the Invitation for Bid. The bids shall not be opened or reviewed prior to the time set for opening of the bids, except as provided in subsection 2-1-060. B.2.g.
- g. **Correction or Withdrawal of Bids.** The City may permit correction or withdrawal of bids prior to any bid opening. After bid opening, no changes in bid prices may be permitted. However, the City, in its discretion and upon a showing of hardship by the bidder, may allow the withdrawal of a bid containing a substantial error. Any decision to permit the correction or withdrawal of bids shall be supported, in writing, by the City.
- h. **Opening Bids.** Bids shall be opened in public and in the presence of one or more documented witnesses at the time and place designated in the Invitation for Bids. Bids shall be opened by the Chief Procurement Officer or designee.
- i. **Recording Bids.** The total amount of each bid and the name of the bidder shall be read aloud as the bids are opened, and such information shall be recorded and open to public inspection.
- j. **Evaluating Bids.** At the time of opening, the bids shall be briefly reviewed by the City to determine the apparent lowest responsible and responsive bidder based on the criteria set forth in the Invitation for Bids. Bids shall thereafter be fully evaluated within a reasonable time by the Purchasing Agent or designee to determine the lowest responsive and responsible bidder, whose bid or quote conforms in all material aspects to the bid specifications, and who has the capacity in all respects to perform in full the contract or purchase order requirements in a timely manner. The Purchasing Agent or designee may not use criteria not described in the Invitation for Bids to evaluate a bid.
- k. **Determination.** The City may request additional information with respect to the responsibility of a bidder. The unreasonable failure of a bidder to promptly supply information or proof regarding responsibility may be grounds for a determination of non-responsibility or non-responsiveness of the bidder.
- l. **Award.** Following full evaluation of the bids, the City Council may accept, reject, or modify the determination and thereupon award the contract or reject any and all bids.
- m. **Tie Bids.** If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit

the delay of re-soliciting bids, the Chief Procurement Officer or designee shall resolve a tie bid using the following considerations:

- i. bidder closest to the point of delivery;
 - ii. bidder who received the previous award;
 - iii. bidder who will provide the earliest delivery date; or
 - iv. by drawing lots.
- n. **Single Bids.** In the event only one bid is received, the Purchasing Agent shall determine whether it is in the best interests of the City to re-solicit for additional bids or proceed with a procurement award using the single bid received.
 - o. **No Bids or Proposals.** In the event no bids or proposals are received, the Purchasing Agent shall determine whether the delay of re-soliciting bids or proposals will be detrimental to the public interest. If a delay in re-soliciting bids or proposals will be detrimental to the public interest, the Purchasing Agent may purchase the supplies or services with as much competition as practicable under the circumstances.
 - p. **Dividing the Cost of a Construction Project.** The cost of a construction project may not be divided to avoid exceeding the bid limit. However, the cost of a construction project that exceeds the bid limit may be divided if the selection procedures comply with the requirements of this chapter with respect to each part of the construction project that results from dividing the cost.
 - q. **Exceptions.** Any exceptions to the procedures set forth in this section must be in the best interest of the City and must have prior written approval of the Chief Procurement Officer or designee.

C. Exemptions from Small and Large Purchases.

1. The following expenditures are exempt from the small and large purchases procedures of this chapter, but shall be made with as much competition as practical under the circumstances:
 - a. **Procurement under City, County, State, or Federal Contracts or Pre-Qualified Lists.** An expenditure for which requests for qualifications, competitive bidding or price negotiation according to a procedure comparable to the City's process has already occurred at the City, county, state or federal level.
 - b. **Service Contracts and Professional Services.** Service contracts and professional services, but not design professional services, are expenditures that, by their

nature, are not reasonably adapted to award by competitive bidding. The Chief Procurement Officer or designee shall award service contracts and professional services contracts based on the Chief Procurement Officer's evaluation of the provider's professional qualifications, service ability, experience, cost of services, and other applicable criteria as may be established. A Request for Proposal or Request for Qualifications may be used to make such a determination. Prior to entering into a service or professional services contract, the Chief Procurement Officer shall determine that it is within the best interest of the City to do so, and that as many providers as practical have been considered for the service. Once a service or professional services contract has been issued, any periodic payments do not require additional approval from the Chief Procurement Officer, provided the contract payments have been properly budgeted. A department may proceed with a service contract or the purchase of professional services according to the terms and conditions of an existing City contract.

i. Request for Proposals

- 1. Form.** When the City is unsure of what procurement item is required or the abilities of various providers, the Chief Procurement Officer or Purchasing Agent may prepare a Request for Proposals, which shall include such specifications as are known and the various skills and qualifications needed, to be used to obtain a procurement item.
- 2. Evaluating Proposals.** Proposals shall be evaluated within a reasonable time by an evaluation committee comprised of at least three city employees to determine which proposal provides the best value to the City. The committee shall evaluate each responsive and responsible proposal, which proposal conforms in all material aspects to the proposal specifications, and which demonstrates the proposal has the capacity in all respects to perform in full the contract or purchase order requirements in a timely manner. Evaluation criteria for a proposal may include items such as experience, qualifications, approach to the project, references, management plans, schedule of delivery, cost, and other subjective or objective criteria. At any time during the evaluation process, the evaluation committee may request additional information from a proposer or proposers, including oral interviews or presentations. Criteria not described in the Request for Proposals may not be used to evaluate a proposal. See section 2-1-140 for soliciting design professional services using a Request for Proposals or Requests for Qualifications.

- c. Sole Source.** Expenditures for goods or services which, by their nature, are not reasonably adapted to award by competitive bidding, including goods or services which can be purchased only from one source; contracts for additions to and

repair and maintenance of equipment already owned by the City which may be more efficiently added to, repaired or maintained by a certain person or firm; and equipment which, by reason of the training of City personnel or an inventory of replacement parts, is compatible with the existing equipment owned by the City. Prior to any expenditure under this subsection, the Chief Procurement Officer shall determine, in writing, that the requirements of this subsection have been satisfied.

- d. **Interlocal Agreement:** An expenditure made in conjunction with an interlocal agreement between the City and another governmental entity in compliance with the Interlocal Cooperation Act, Utah Code Title 11, Chapter 13.
- e. **Emergency Procurement.** The existence of an emergency condition may create an immediate and serious need for supplies, services, repairs, or construction that cannot be met through normal procurement methods and policy. An emergency procurement of supplies, services, repairs, or construction shall be made using as much competition as practical under the circumstances. Emergency procurement shall be limited to only those supplies, services, repairs, or construction necessary to mitigate the emergency. Following an emergency expenditure, and as soon as practicable, a purchase order shall be submitted by the department for which the emergency purchase was made. Such purchase orders shall be treated as regular purchase orders and shall require the appropriate approval signatures as stated in this chapter.

2-1-070: CANCELLATION AND REJECTION OF BIDS AND PROPOSALS. The City reserves the right to cancel an Invitation for Bids, Request for Proposals, or to reject any or all bids or proposals. Any cancellation or rejection shall be in writing. If, after cancellation or rejection of all bids or proposals, the City decides to make the purchase or encumbrance, it shall, when required by State law, reinstate the Invitation for Bids or Request for Proposals process. If after repeating the process, no satisfactory bid or proposal is received, the City may negotiate or make the improvement or acquisition or enter such other agreements as it deems necessary or desirable.

2-1-080: BONDS AND BID SECURITY.

- A. **Performance and Payment Bonds.** Prior to entering any contract, the City may require performance and payment bonds to be provided in such form and amounts as required by law and by the City as reasonably necessary to protect the best interest of the City.
- B. **Bid Security.** Contracts for construction projects may require a bid security in an amount equal to at least five percent of the amount of the bid.

2-1-090: CONTRACTS AND CHANGE ORDERS.

- A. The City may award exclusive and nonexclusive contracts. Unless a contract specifically states it is exclusive, it shall be deemed nonexclusive. "Nonexclusive" means that the

City may award a contract to more than one contractor for similar supplies or services as deemed appropriate.

- B. A contract for supplies, services, or construction materials shall have a stated end date and may be entered into for any stated period of time deemed to be in the best interest of the City. The term of the contract and the conditions of renewal or extension, if any, shall be included in the solicitation. No contract may be renewed indefinitely.
- C. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriations of funds by the City Council.
- D. Contracts and purchase orders may be amended, modified or supplemented only by written amendment to the contract or purchase order, executed by the parties thereto.
- E. The City Recorder shall countersign all contracts made on behalf of the City or to which the City is a party. Department heads shall provide the City Recorder with a fully conformed original copy of all procurement contracts upon their execution. The City Recorder shall maintain an indexed record of all procurement contracts.
- F. In the event a construction project has a change order or a price variance due to unknown or unforeseen circumstances, conditions, or factors affecting the outcome of the project, the Chief Procurement Officer shall notify the City Council of any condition that would exceed 20% of the original bid amount. Change orders in construction project contracts that cause the contract price to exceed the total project budget shall not be approved until reviewed and approved as a budget adjustment by the City Council.

2-1-100: PROTEST OF SPECIFICATIONS OR AWARD OF PROCUREMENT CONTRACT; APPEAL.

- A. Grievance: Any actual or prospective bidder, offeror or contractor who is aggrieved with the solicitation or award of a procurement contract may protest to the Purchasing Agent.
- B. Protest of Specifications: A protest regarding the specifications of a solicitation shall be submitted in writing to the Purchasing Agent prior to the opening of the bid and must list the pertinent facts giving rise to the protest.
- C. Protest of Contract or Purchase Award: A protest regarding the award of a procurement contract or purchase award shall be submitted in writing to the Purchasing Agent within five business days of the award of a procurement contract or purchase award and must list the pertinent facts giving rise to the protest. Untimely protests will not be considered.
- D. Stay of Proceedings: In the event of a timely protest, the City shall not proceed further with the solicitation or with the award of the contract or purchase until the protest is sustained or rejected by the Purchasing Agent, unless an immediate award of the contract or purchase is required to protect substantial interests of the City.

- E. **Protest Review:** The Purchasing Agent shall determine if the protest is timely filed. If the Purchasing Agent determines the protest is timely filed, the protest shall be dismissed if the Purchasing Agent determines the protest alleges facts that, if true, do not provide an adequate basis for the protest. Otherwise, the Purchasing Agent shall uphold the protest.
- F. **Appeal:** Any person aggrieved of a determination of a Department Head, the Purchasing Agent or Chief Procurement Officer in connection with the provisions of this chapter may appeal the determination or action to the City Council within five business days from the Purchasing Agent's decision by filing a written appeal to the City Recorder, stating the reasons therefor. The City Council shall schedule a hearing on the matter within ten days of the Recorder's receipt of the appeal.

2-1-110: BUDGET LIMITATION. No expenditure or encumbrance shall be made for any supplies, services, or construction project that exceeds the funded amount in the City budget, except as may be provided in an emergency situation.

2-1-120: DELIVERY OF SUPPLIES. When supplies are delivered, the Purchasing Agent or the Department Head who requested the supplies shall inspect the supplies received to assure that the correct quantity and quality have been delivered. If the supplies delivered are satisfactory, the supplies shall be accepted and a copy of the packing slip, invoice, or other delivery document (or an electronic copy of such) shall be forwarded to accounts payable for review, payment, and filing.

2-1-130: INVENTORY MANAGEMENT. Department heads shall exercise supervision of all inventories of tangible City property within the control of or assigned to their departments. All City property located in warehouses and similar storage areas shall be inventoried annually. Accountability for the property shall reside with the respective Department Head.

2-1-140. DESIGN PROFESSIONAL SERVICES. The Purchasing Agent may establish criteria in a Request for Qualifications or Request for Proposals by which the qualifications of a design professional will be evaluated as provided by Utah Code Ann. 63G-6a-1502.5. The Purchasing Agent shall follow all requirements of Utah Code Ann. 63G-6a-1501 et seq. in securing design professional services, including appointing an evaluation committee of at least three members.

2-1-150. PETTY CASH. The City shall maintain a petty cash fund in which the total amount of cash, vouchers and receipts shall not exceed \$300. The petty cash fund shall be kept in a locked box maintained by the City Treasurer. A City employee may receive up to \$50 from the petty cash fund for any lawful and necessary expenditure to be made on behalf of the City and shall sign a petty cash voucher showing the amount received and an explanation of the intended use of the money. Within three business days after making the expenditure, the employee shall return any excess money to the petty cash fund and staple the itemized receipt for the expenditure to the petty cash voucher. Employees shall not receive any money from the petty cash fund for personal use. When money in the petty cash fund falls below \$100, the City Treasurer shall draft a check to the petty cash fund to raise the amount of currency in the fund to \$300.

2-1-160. CITY PURCHASING CARDS.

- A. City employees and officials who have been issued a City purchasing card may use such card for City purchases and are encouraged, whenever possible, to use vendors with whom the City has an existing account. The card holder must deem that using the purchasing card is in the best interest of the City and would expedite the purchase process.
- B. All purchases made with City purchasing cards shall require a receipt. The receipt shall be turned in to the City Treasurer with the purchasing card monthly statement.
- C. The City Treasurer shall review all purchasing card statements.
- D. Personal purchases of any type on a City-issued purchasing card are strictly prohibited.
- E. Each employee who has access to a City purchasing card shall sign a purchasing card use agreement.
- F. Employees using City purchasing cards shall comply with Section 2-1-190 of this code. Anyone found in violation of this section may be subject to disciplinary action up to and including termination and may be subject to prosecution under the law.

2-1-170: DISPOSAL OF SURPLUS PROPERTY.

A. Real Property.

1. The City Council may authorize by resolution the disposal, including by sale, lease, or other lawful manner, of real property for the benefit of the City as provided by Utah Code Ann. 10-8-2, as amended. A significant parcel of real property is a parcel greater than one acre or that has a reasonable value more than \$100,000.
2. The Chief Procurement Officer shall make an initial determination that real property is surplus. Surplus real property may include real property that is not needed for City infrastructure; property whose cost to maintain outweighs its value to the City; property that is part of a trade that will benefit the City, the sale of which will realize significant financial benefits to the City; or the disposal of which is otherwise in the public interest.
3. Before the City may dispose of a significant parcel of real property, the City shall provide notice and hold a public meeting at which the City Council shall accept public comment on the proposed disposition.
4. All disposal, leases, or subleases of such real property of the City other than a significant parcel of real property, shall be made, as nearly as possible, under the same conditions and limitations as required by this chapter for the purchase of property, including notice and bidding procedures.

5. The City Council may authorize at its discretion and under such terms and conditions as it deems desirable, fair and appropriate, considering the intended use, property tax value and the interests of the City, the sale of any surplus real property, through public auction or other method designed to best serve the interests of City residents and produce a fair return; the trade or exchange or any surplus real property; or the lease or sublease of any surplus real property.

B. Personal Property.

1. Whenever personal property is no longer needed by a City department, the Department Head having control of such property shall notify the Chief Procurement Officer or designee. The Chief Procurement Officer or designee shall notify other City departments of the availability of such property. If the property is requested, the Chief Procurement Officer or designee shall supervise the transfer of such property to the department requesting the property.
2. If City personal property becomes surplus, unused, obsolete, unsuitable for public use, or otherwise no longer needed, the property shall be disposed of as follows:
 - a. City personal property that is included in the fixed asset register shall not be disposed of, or sold through public auction, until such property is declared surplus by the City Council. Once this property is declared surplus by the City Council, it may be sold to the highest bidder by the Purchasing Agent through an approved public auction service provider or through public auction.
 - b. City personal property that was not originally included in the fixed asset register may be sold to the highest bidder by the Purchasing Agent through an approved public auction service provider or by conducting a public auction. The Chief Procurement Officer shall have the right to reject any bids or offers for City personal property when in the best interest of the City.
 - c. If a surplus item remains unsold after reasonable attempts to sell it through public auction, the Chief Procurement Officer may sell the surplus item to any person for such price as the Chief Procurement Officer deems appropriate or may dispose of the item at the Chief Procurement Officer's discretion.
 - d. Personal property that is fully consumed in its use for official City business shall be disposed of in any reasonable manner approved by the Purchasing Agent.
 - e. Monetary proceeds from the sale or other disposition of items pursuant to this section which were an enterprise fund asset or purchased with enterprise fund revenues shall be credited to the respective enterprise fund. All other proceeds shall be credited to the City's general fund.
 - f. Where personal property is of such a size, shape, or is so unique as to be unmarketable, the requirements of this section may be waived and such property

may be sold or otherwise disposed of in any reasonable manner, with the approval of the City Council.

2-1-180 ADVERTISING REQUIREMENTS. All procurement solicitations shall conform to the following advertising requirements, as applicable. Unless otherwise stated, procurement solicitations may be posted in E-Procurement websites rather than advertised in a printed medium.

- A. Invitations for Bids and Requests for Proposals shall be advertised a minimum of five days in advance of the bid due date at least once in a generally and widely available medium, which may include newspapers, business journals or posted on an E-Procurement website.
- B. Invitations for Bids for building improvement and public works projects shall be published at least twice in a newspaper published or of general circulation in the City, at least five business days before opening the bids; and in accordance with Utah Code Ann. § 45-1-101, as amended, at least five business days before opening the bids.
- C. Invitations for Bids for class C road improvement projects shall be advertised at least once a week for three consecutive weeks in a newspaper of general circulation; and in accordance with Utah Code Ann. § 45-1-101, as amended, for three weeks.
- D. Notice to surplus real property shall be provided at least 14 calendar days before the opportunity for public comment by posting the property with notice of the consideration of designating it surplus and mailing notice to each owner of real property within 300 feet of the property that is the subject of the proposed disposition as shown on the last assessment rolls of the county in which the property is located.
- E. Notice for the sale of surplus personal property shall be advertised at least ten business days prior to the sale or opening of bids at least once in a newspaper of general circulation; or posted on a public surplus company website. The notice shall describe the property to be sold, the terms of sale and the place and time of such sale or bid opening.

2-1-190: ETHICS.

- A. Disclosure of Pecuniary Interest. Officers or employees of the City having a direct or indirect pecuniary interest in any contract entered into by the City shall disclose such interest. All officers and employees shall comply with applicable provisions of State law regarding ethics, including the Utah Municipal Officers' and Employees' Ethics Act, Utah Code Ann. 10-3-1301, et seq., as amended and adopted by the City.
- B. Personal Use. Purchase of supplies, services, or equipment by the City for personal use by officers or employees of the City is prohibited.
- C. Disciplinary Action. A violation of this section by officers or employees of the City may be cause for disciplinary action up to and including termination, in accordance with the disciplinary procedures set forth in the Personnel Policies and Procedures of the City.

2-1-200: VIOLATIONS. Any purchase or contract executed in violation of the provisions of this chapter or applicable state law shall be void as to the City, and any funds expended thereupon may be recovered by the City through appropriate action.